

Serial No.: 10/827,476
Inventor(s): Higgins et al.

U.S. PTO Customer No. 25280
Case No.: 5615B

REMARKS

The Pending Claims

Claim 1 has been amended to at least reduce the issues on appeal. Thus, Claims 1-11, 21-24, 27-30, 33-36, 38-39, 42-43, and 50-55 are pending.

Claim 1 has been amended to call for a cushion back floor tile.

Applicants respectfully note that claims 1-11, 21-24, 27-30, 38, 39, 42 and 43 were not rejected over art (not rejected under 35 USC 103(a)).

Claim 1 has been amended to change "carpet" to "floor". Hence, the 35 USC 112 rejections of claims 1-11, 21-24, 27-30, 38, 29, 42, and 43 are respectfully obviated by the amendment of claim 1.

As the 35 USC 112 rejections thereof are respectfully deemed moot and as they were not rejected under art (under 103 (a)), Applicants respectfully believe that at least claims 1-11, 21-24, 27-30, 38, 39, 42, and 43 are in condition for allowance (allowable).

With respect to the 35 USC 103(a) rejections of claims 33-36 and 50-55, Applicants respectfully note that claim 50 calls for a cushion back floor tile and, as such, claims 50 and 55 should be allowable for the same reasons as claim 1.

Further, Applicants respectfully traverse the 35 USC 103(a) rejection of claims 33-36 and 50 over Nygaard in view of Grant and Desai (with or without Official Notice) on the grounds that such a combination is based on improper hindsight, is taught away from by the art, does not meet the claim limitations, and the like.

Nygaard is directed to a carpet tile. Grant is directed to a modular material design system (matrix of colors or tones for modular elements). Grant mentions carpet tiles, ceramic floor tiles, vinyl flooring squares, and the like, but does not teach one to replace the carpet layer of a carpet tile with the ceramic face of a ceramic tile or with the vinyl face of a vinyl tile. Further, Grant does not appear to be directed to a friction enhancing coating on the back of the modular units.

Desai appears to be directed to flooring with styrene polymer intermediate or backing layers. Desai appears to teach away from the use of PVC or vinyl containing backings for flooring.

Hence, Applicants respectfully believe that Desai teaches away from PVC backings, teaches away from the substitution by Official Notice of PVC for the styrene

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polymer of Desai, the references themselves do not provide the rationale for combination, the references are directed to diverse technologies (not to the claimed invention) (Nygaard to carpet tile, Grant to color design systems, Desai to styrene polymer backings), and such a proposed combination is based on improper hindsight reconstruction.

Claims 51-55 were rejected as being unpatentable over Nygaard, Grant and Desai in further view of Bahlo. Applicants respectfully believe that the addition of Bahlo does not cure the deficiencies of Nygaard, Grant and Desai described above.

The claimed surface covering elements of the present application are especially suited to not require a cover layer. For example, Claim 1 of the present application calls for a friction enhancing coating composition with little or no blocking. A non-blocking composition does not require a cover sheet.

Also, Bahlo appears to teach away from the use of a discontinuous pattern of adhesive on the bottom of any article other than a foam backed carpet tile. Note, for example, that a vinyl surfaced tile with an adhesive backing (presumably a full or continuous adhesive backing) can be applied to a subfloor and removed without difficulty (column 1, lines 6-9) while carpet surfaced tiles with foam backings need a partial (10 to 50 percent coverage) adhesive backing (abstract, column 1, lines 9-22 and 59-62, and column 2, lines 33-45). Hence, Bahlo teaches away from applying a discontinuous adhesive to the back of ceramic, vinyl, laminate, or wood floor tiles, especially if they do not have a foam backing. Further, Bahlo teaches away from the proposed combination of references as noting that carpet tile and other modular flooring face different issues.

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Conclusion

In view of the forgoing Amendments and Remarks, it is respectfully believed that the present application is in condition for allowance. Thus, the Examiner is respectfully requested to pass the subject application to Allowance.

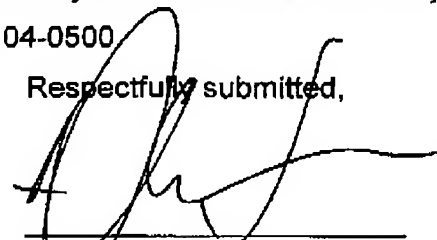
Fee Authorization: In the event that there are additional fees associated with the submission of these papers, Applicants hereby authorize the Commissioner to withdraw those fees from our Deposit Account No. 04-0500.

Extension of Time: In the event that additional time is required to have the papers submitted herewith for the above referenced application to be considered timely, Applicants hereby petition for any additional time required to make these papers timely and authorization is hereby granted to withdraw any additional fees necessary for this additional time from our Deposit Account No. 04-0500.

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Respectfully submitted,



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